

## **REMARKS**

Claims 1-17 were pending in the application and have been rejected. Claims 1, 8, 9, and 11 have been amended. Applicant respectfully requests reconsideration of the pending claims.

### **CLAIM REJECTIONS UNDER 35 USC §102**

For a reference to anticipate a claim, each element and limitation of the claim must be found in the reference. *Hoover Group, Inc. v. Custom Metalcraft, Inc.*, 66 F.3d 299, 302 (Fed. Cir. 1995). Applicant respectfully requests reconsideration of the rejections.

The Office Action has rejected claims 1-17 under 35 USC 102(e) as being anticipated by Loughmiller et al. (US 7,257,564). Claim 1 is not anticipated by Loughmiller because Loughmiller does not teach or suggest the limitation of “assigning each of the incoming electronic mail into one of the at least three electronic mail directories whose assigned ranges of likelihood of spam content encompass the likelihood of spam content grade of the incoming electronic mail.”

Moreover, claim 1 has been amended to include a step of “allowing the user to adjust the level of likelihood of spam that is required for placement of emails in the electronic mail directories.” This feature is neither taught nor suggested by Loughmiller. Support for this amendment is found at paragraphs [0031], [0032] and [0035] of the published specification.

Claim 2 is dependent upon claim 1 and is therefore not anticipated by Loughmiller for at

least the same reasons that claim 1 is not anticipated by Loughmiller. In addition, claim 2 recites a limitation of assigning an email to at least two different directories if the email falls within an overlap range. Loughmiller's email classification system does not provide for an overlap range or the possibility of assigning the same email to two different directories. The final Office action cites Loughmiller, col. 5, lines 23-47 but that part of Loughmiller discusses two levels of non-spam, "good email" and "bulk periodicals" (both are passed to the client level where they are stored in either the good block or directory 142 or the bulk block or directory 143) but there is no overlap in classification and the different classes of emails are not stored in the same directory. Therefore, claim 2 is not anticipated by Loughmiller and its rejection should be withdrawn.

Claims 3 through 7 are dependent on claim 1 and are therefore allowable for at least the same reasons that claim 1 is allowable.

Claims 8, 10, and 11 are counterpart claims to claim 1 and contain equivalents of the above-stated limitations as found in claim 1 that are clearly not anticipated by Loughmiller; therefore claims 8, 10, and 11 are not anticipated by Loughmiller and their rejections should be withdrawn.

New claims 12-17 are not anticipated by Loughmiller because the new claims further elaborate on the method of classifying email by using multiple directories wherein each directory is assigned a different range of likelihood spam content. Further, the new claims 12-17 are not anticipated by Loughmiller by virtue of their dependence on claim 1 which is not anticipated by Loughmiller for the reasons as stated above.

For the foregoing reasons, Applicant respectfully requests allowance of the pending

claims.

Respectfully submitted,

/Michael J. Buchenhorner/

Michael J. Buchenhorner  
Reg. No. 33,162

Date: September 29, 2008  
Michael Buchenhorner, P.A.  
8540 S.W. 83 Street  
Miami, Florida 33143  
(305) 273-8007 (voice)  
(305) 595-9579 (fax)